

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Monday, December 3, 2012 – 9:00 a.m. – Room 30 House Building

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. Gene Davis  
Pres. Michael G. Waddoups  
Rep. Neal B. Hendrickson  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold

**Members Absent:**

Sen. Mark B. Madsen  
Sen. Benjamin M. McAdams  
Speaker Rebecca D. Lockhart

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Oda called the meeting to order at 9:24 a.m.

**MOTION:** Sen. Davis moved to approve the minutes of the October 30, 2012, meeting. The motion passed unanimously.

**2. Licensing Requirements for Tutoring/Mentoring Services**

Mr. Mark Steinagel, Director, Division of Occupational and Professional Licensing stated that the division does not license mentoring companies, and noted that the Legislature may want to look at clarifying the language in Utah Code Subsection 58-61-102 (9)(a)(iii), which defines the practice of psychology with respect to the evaluation and assessment of learning disabilities. Mr. Steinagel noted, however, that the division does investigate complaints.

Ms. Kristin Eberting briefed the committee on her experiences in finding and utilizing a reading tutor for her dyslexic son. She spoke favorably about the assistance provided to her family through the Dyslexia Center of Utah.

Ms. Nanci Ross, Co-director, Dyslexia Center of Utah, stated that the Dyslexia Center provides diagnosis for dyslexia, but that the diagnosis the center provides involves no psychological testing.

Ms. Shelley Hatch, Co-director, Dyslexia Center of Utah, responded to committee members' questions about the testing and diagnosis given at the center. Ms. Hatch also spoke of the circumstances that caused the Division of Occupational and Professional Licensing to become involved and intervene in her work at the center.

Dr. Martell Menlove, Deputy Superintendent of Public Instruction, responded to committee members' questions, and said that a dyslexic student in the public school system may not qualify to receive assistance through a special education program if the dyslexia does not appear to interfere with a student's ability to learn. Dr. Menlove also noted that although school counselors are licensed with the State Office of Education as school psychologists, they cannot practice as a psychologist outside of a school.

Committee discussion followed about whether any statute or rule should be amended for clarification, and it was determined that the discussion should be continued at a future meeting.

**3. R277-445 Classifying Small Schools as Necessarily Existent**

Dr. Menlove briefed the committee on the background that led to the following new wording in the rule: "An amount not to exceed five percent of the total necessarily existent small school funding shall be distributed on a formula that considers the tax effort of the local board of education." Dr. Menlove explained that it was an attempt to reward and encourage local tax effort.

Committee discussion focused on whether the statute provides authority for such a formula to be added to the rule, and if not, whether the rule should be added to the sunset list.

Dr. Menlove participated in the discussion and responded to questions. He said he would like to know if the Legislature would concur that the concept is a good one, and if statute should be changed to allow for the rule as promulgated.

The chairs agreed to further discussion on this issue at the next meeting.

#### **4. Committee Business**

Future meetings were scheduled for Thursday, December 20, 2012, at 9:00 a.m. in Room 30 House Building, and Monday, January 21, 2012, at 9:00 a.m. in Room C445 State Capitol.

#### **5. Adjourn**

Chair Oda adjourned the meeting at 11:06 a.m.